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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

Case No. 07-cv-5944 (SC)
MDL No. 1917

This Document Relates to:

Sharp Electronics Corp., et al. v. Hitachi Ltd., et al.,
No. 13-cv-1173;

Electrograph Systems, Inc. et al. v. Technicolor SA,
et al., No. 13-cv-05724;

Siegel v. Technicolor SA, et al., No. 13-cv-05261;

Best Buy Co., Inc., et al. v. Technicolor SA, et al.,
No. 13-cv-05264;

Target Corp. v. Technicolor SA, et al., No. 13-cv-

**DIRECT ACTION PLAINTIFFS’
MOTION TO SHORTEN TIME RE:
MOTION TO ENFORCE THE
COURT’S ORDER RE: THOMSON
DISCOVERY**

(CIVIL LOCAL RULE 6-3)

05686;

Interbond Corporation of America v. Technicolor SA, et al., No. 13-cv-05727;

Office Depot, Inc. v. Technicolor SA, et al., No. 13-cv-05726;

Costco Wholesale Corporation v. Technicolor SA, et al., No. 13-cv-05723;

P.C. Richard & Son Long Island Corporation, et al. v. Technicolor SA, et al., No. 13-cv-05725;

Schultze Agency Services, LLC v. Technicolor SA, Ltd., et al., No. 13-cv-05668;

Sears, Roebuck and Co. and Kmart Corp. v. Technicolor SA, No. 3:13-cv-05262;

Tech Data Corp., et al. v. Hitachi, Ltd., et al., No. 13-cv-00157;

Crago, et al. v. Mitsubishi Electric Corp., No. 14-cv-02058.

NOTICE OF MOTION AND MOTION FOR ORDER SHORTENING TIME

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to Civil Local Rule 6-3, Plaintiffs¹ will, and hereby do, move this Court for an order shortening the time in which the parties may file opposition and reply briefing on Direct Action Plaintiffs' concurrently filed Motion to Enforce the Court's Order re: Thomson Discovery by Imposing Deadline on Thomson SA's Production of Documents ("Motion to Enforce").

Specifically, Plaintiffs request that the Court issue an order that the last day for Thomson to file an opposition to the Motion to Enforce is November 14, 2014, that a reply brief shall be filed no later than November 17, 2014, and that the Motion to Enforce be deemed submitted for immediate determination without hearing on the day after the reply brief is filed.

1. Reasons for the Requested Shortening of Time

As set forth more fully in Direct Action Plaintiffs' concurrently filed Motion to Enforce, this Court granted Plaintiffs' motion to compel on October 23, 2014, extending discovery against Thomson for 60 days, or until December 22, 2014. (Dkt. No. 2945 at 22 ("October 23 Order").) The discovery to be completed within the 60 days includes both document production and depositions. (*Id.*) The documents to be produced include documents (1) related to communications or meetings between Thomson and competitors; (2) related to the Court's general or specific jurisdiction over Thomson; (3) related to the disposition of Thomson's CRT business; and (4) that Thomson had produced to the European Commission for Competition ("EC"). (Dkt. No. 2812 (Recommended Order of the Special Master) at 2 (paraphrasing document requests).) Once Thomson produces the documents, Plaintiffs will need to take a Rule 30(b)(6) corporate deposition and four fact witness depositions using the documents, all within the 60-day period expiring on December 22.

¹ "Direct Action Plaintiffs" and "Plaintiffs" refer to all Direct Action Plaintiffs, except the Dell and CompuCom plaintiffs which have not named Thomson SA as a defendant.

As indicated in the underlying motion, Thomson has not, to date, produced any documents in response to the Court's Order. Nor will Thomson commit to providing a date by which the entire production subject to the October 23 Order will be complete. *See* Declaration of Craig A. Benson in Support of Motion to Shorten Time re: Motion to Enforce the Court's Order ("Benson Time Decl."), ¶¶ 6, 9, 11-12 & Ex. 2 (at Oct. 30, 8:29 p.m. and Nov. 3, 8:50 p.m. emails). Plaintiffs therefore request in the Motion to Enforce that Thomson complete production of the documents subject to the October 23 Order within 10 days after the Court's decision on that motion. In the present motion to shorten time, Plaintiffs request an order expediting briefing on the Motion to Enforce, so that the decision on the Motion to Enforce can be issued more quickly and the discovery can be completed in a timely manner.

2. Efforts Made by the Parties

Plaintiffs have repeatedly asked counsel for Thomson when Thomson would produce the documents subject to the Court's October 23 Order, but Thomson refuses to commit to providing a date by which the entire production subject to the October 23 Order will be complete. Benson Time Decl. ¶¶ 6, 9; Ex. 2 (at Oct. 30, 8:29 p.m.; Nov. 3, 8:50 p.m. emails). Concerned that Thomson's position would jeopardize the discovery schedule and trial date, Plaintiffs contacted counsel for Thomson on October 31 to confirm, based on Thomson's October 30 communication, that Thomson would not agree to a production schedule that will permit Plaintiffs to review the documents and complete depositions within the time permitted. *Id.* Ex. 2 (at Oct. 31, 4:14 p.m. email). Counsel for Thomson responded on November 3, contending that it would not be "actually achievable" for Plaintiffs to complete discovery by December 22, 2014, unless they agreed to accept something less than a full production from Thomson. *Id.* Ex. 2 (at Nov. 3, 10:21 a.m. email). Plaintiffs responded on November 3, asking that Thomson provide dates certain by which it would complete the full ordered production. *Id.* Ex. 2 (at Nov. 3, 2:25 p.m. email). Thomson again declined. *Id.* Ex. 2 (at Nov. 3, 8:50 p.m. email).

Plaintiffs first proposed a briefing and hearing schedule on a motion to enforce on November 3. *Id.* ¶ 10 & Ex. 2 (at Nov. 3, 2:25 p.m. email). The parties have met and conferred, and have been unable to stipulate to such a schedule. *Id.* ¶¶ 11-12 & Ex. 2 (at Nov. 3, 8:50 p.m.

1 email). As of the time of this filing, counsel for Thomson has not agreed to Plaintiffs' proposed
 2 schedule nor provided a proposed schedule of its own. *Id.* ¶ 12.

3 **3. Harm That Will Occur**

4 If the Motion to Enforce were heard upon a regularly noticed briefing schedule, it
 5 would not be heard until December 12, 2014, at the earliest. Given the fact discovery deadline of
 6 December 22, 2014, and the trial date of March 9, 2015, Plaintiffs request a shortened briefing
 7 schedule so that Plaintiffs have an opportunity to receive and review Thomson's documents
 8 subject to the October 23 Order prior to taking a Rule 30(b)(6) corporate deposition and four fact
 9 witness depositions using the documents, and so that all of this discovery can be completed by
 10 December 22. Benson Time Decl. ¶ 13.

11 **4. Meet and Confer pursuant to Local Rule 37-1**

12 As set forth more fully above, in the Motion to Enforce, and in the Declarations of
 13 Craig A. Benson in support of this motion and the Motion to Enforce, Plaintiffs have engaged in
 14 a series of discussions and emails with counsel for Thomson regarding its compliance with the
 15 Court's October 23 Order. Despite these efforts, the parties have been unable to resolve the
 16 issues in dispute. Thus, on November 3, 2014, counsel for the Sharp plaintiffs proposed a
 17 briefing schedule on a motion to enforce, sought a stipulation to shortened time for briefing on
 18 the concurrently filed Motion to Enforce, and requested Thomson to meet and confer. The meet
 19 and confer conference took place on November 4. Counsel for Thomson refused to stipulate to
 20 expedited briefing. *See* Benson Time Decl. ¶¶ 5-6, 8-12; Exs. 1-3.

21 **5. All Previous Time Modifications**

22 Pursuant to Civil Local Rule 6-3(a)(5), the following table discloses previous time
 23 modifications made in this multi-district litigation that are active as to Thomson defendants,
 24 whether by stipulation or Court Order:

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<u>Date</u>	<u>Dkt. No.</u>	<u>Description</u>
7/28/2014	2711	Order establishing discovery and pre-trial schedule between Viewsonic Corporation and defendants.
8/25/2014	2761	Order entering stipulating between Thomson and Direct Action Plaintiffs permitting a Rule 30(b)(6) deposition beyond September 5, 2014.
10/23/2014	2945	Order extending fact discovery by Direct Action Plaintiffs against Thomson for 60 days, or until December 22, 2014.

6. Modification Request

For all the foregoing reasons, Plaintiffs respectfully request that the briefing for the concurrently filed Motion to Enforce be set as follows, and that the Motion to Enforce shall be deemed submitted for immediate determination without hearing on the day after the reply brief is filed:

<u>Description of Activity</u>	<u>Filing & Service Date</u>
Last Day to File Opposition	November 14, 2014
Last Day to File Reply	November 17, 2014

This motion is based upon this Notice of Motion and Motion, the Memorandum of Points and Authorities in Support of the Motion to Enforce, the Declaration of Craig A. Benson filed herewith, and such other materials and information that the Court may properly consider.

1 DATED: November 6, 2014 By: /s/ Craig A. Benson

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E-FILING ATTESTATION

I, Craig A. Benson, am the ECF user whose ID and password are being used to file the Direct Action Plaintiffs' Motion to Shorten Time Re: Motion to Enforce the Court's Order Re: Thomson Discovery (Civil Local Rule 6-3). In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each listed counsel above has concurred in this filing.

Dated: November 6, 2014

/s/ Craig A. Benson
Craig A. Benson